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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,817	06/27/2006	Gundula Czyzewski	2003P01981WOUS	3957

46726 7590 03/21/2008
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

EXAMINER

CHUNG, RAYMOND

ART UNIT	PAPER NUMBER
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4145

MAIL DATE	DELIVERY MODE
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03/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/584,817	Applicant(s) CZYZEWSKI ET AL.	
	Examiner RAYMOND CHUNG	Art Unit 4145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-14 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 6-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20060627</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 27 June 2006 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because "International Search Report PCT/EP2004/053720" is not a foreign patent document. It has been placed in the application file, but said International Search Report referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 6 recites the limitation "the typical washing process" in lines 9 and 20. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 6, 7, and 9-13 rejected under 35 U.S.C. 102(b) as being anticipated by Barnish et al (GB patent 957,944).

With regards to claims 6, 7, 9, and 10, Barnish et al teaches a method for washing laundry in a process-controlled household washing machine comprising a wash liquid container for receiving laundry and wash liquid intended for washing the laundry (P2/L10, washing tub), wherein a heating device (P1/L31, water heater) and a temperature sensor are attached (P1/L45, thermostat), wherein water for washing is poured into the wash liquid container during a filling phase (P2/L22-25) and the temperature sensor delivers signals for the respective temperature of the water or the wash liquid to the process control system (see figure 1, circuit diagram) during the washing phase and said process control system derives commands for controlling the heating device for heating the wash liquid from the temperature signals (P1/L56-62, when water reaches the desired temperature as detected by thermostat, timer is automatically restarted and heater is turned off, see P2/L32-45) and wherein the typical washing process runs at a temperature of the water or the wash liquid at the level of a standard value (P1/L75-76, temperature value to which water is heated) with a heating

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phase which begins with switching on the device and a post-wash phase without adding further heat energy, and lasts for a defined constant time from the beginning of switching on the heating device until the end of the post-wash phase (P1/L40-44, washing process starts with heater turned on and ends with the start of rinse cycle, see P3/L2-7), wherein:

the temperature of the water or the wash liquid is determined at or after the end of the filling with water (P2/L77-83, water reaches a predetermined level and engages heater, which is controlled by thermostat determining water temperature, see P1/L56-58);

that at a determined temperature of less than a standard value for the amount of water which has freshly run into the wash liquid container before the beginning of the washing process the heating device is switched on; and

that the beginning of the washing process is delayed by a defined time interval ($t_{OK} - t_{OS}$) (P1/L56-58, timer temporarily stopped while water is heated) but from there on lasts the same time as the typical washing process;

- wherein the temperature is first determined during the filling with water or wash liquid (P2/L77-83, water reaches a predetermined level and engages heater, which is controlled by thermostat determining water temperature, see P1/L56-58) and before or during switching off the heating device (P1/L56-62, when water reaches the desired temperature as detected by thermostat, timer is automatically restarted and heater is turned off); (claim 7)

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- wherein the time interval ($t_{OK} - t_{0s}$) is defined by reaching the standard value (P1/L56-58, timer temporarily stopped while water is heated, when water reaches the desired temperature as detected by thermostat, timer is automatically restarted and heater is turned off, see P1/L56-62, this would constitute a time interval); (claim 9)

- wherein the time interval ($t_{OK} - t_{0s}$) has a pre-defined length (P1/L40-44). (claim 10)

With regards to claims 11-13, Barnish et al teaches a method for washing laundry in a washing machine comprising a process control system (see figure 1, circuit diagram) for controlling operation of the washing machine, a wash liquid container for receiving laundry and water (P2/L10, washing tub), a heating device for heating the water within the wash liquid container (P1/L31, water heater), and a temperature sensor for detecting the temperature of the water (P1/L45, thermostat), the method comprising the acts of:

providing wash liquid to the wash liquid container during a during a filling phase (P2/L22-25);

detecting an initial temperature of the water with the temperature sensor (P2/L77-83, water reaches a predetermined level and engages heater, which is controlled by thermostat determining water temperature, see P1/L56-58);

activating the heating device to heat the water during a heating phase (P2/L77-83, water reaches a predetermined level and engages heater, which is controlled by thermostat determining water temperature, see P1/L56-58);

performing a delay phase if the temperature of the water is below a pre-determined standard value (P1/L56-58, timer temporarily stopped while water is heated), the delay phase continuing until the temperature of the water reaches the standard value (P3/L17-32, when set on "high" temperature, delay continues until water reaches "medium" temperature, as detected by thermostat, and motor is started);

performing a washing phase and continuing the wash phase for a pre-determined period of time (P3/29-32, in the "high" setting, water or washing liquid is heated for a definite time after reaching "medium" temperature);

turning off the heating device when the temperature of the water reaches a pre-determined washing temperature (P3/L48-52);

- wherein the duration of the washing phase has a pre-defined length (P3/29-32, in the "high" setting, water or washing liquid is heated for a definite time after reaching "medium" temperature); (claim 12)

- wherein the duration of the delay phase is variable in response to the period of time required for the temperature of the water to reach the standard value (P1/L56-58, timer temporarily stopped while water is heated, when water reaches the desired temperature as detected by thermostat, timer is automatically restarted and heater is turned off, see P1/L56-62. Since the time it takes to heat a certain amount of water or wash liquid depends on its specific heat, quantity, and initial temperature, time required to heat water or wash liquid will inherently vary assuming thermal power output of water heater is not adjustable). (claim 13)

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnish et al (GB patent 957,944) as applied to claims 6 and 11.

With regards to claims 8 and 14, Barnish et al teaches all of the claim limitations set forth above. However, the reference does not teach the method wherein the standard value lies in the range of 10 °C to 15 °C.

Since the instant specification is silent to unexpected results, the standard value is not considered to confer patentability to the claim. As energy conserved is a variable that can be modified by adjusting the standard value, the standard value would have been considered a result effective variable by one having ordinary skill in the art at the time the invention was made. As such, without showing unexpected results, the claimed standard value cannot be considered critical. Accordingly, one of ordinary skill in the art at the time the invention was made would have optimized, by routine experimentation, the standard value such that the time required for heating could be minimized and, thereby, energy can be conserved (*In re Boesch*, 617 F.2d. 272, 205 USPQ 215 (CCPA 1980)), since it has been held that where the general conditions of the claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. (*In re Aller*, 105 USPQ 223).

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAYMOND CHUNG whose telephone number is (571)270-3881. The examiner can normally be reached on Monday-Thursday, 8am-5:30pm EST, Alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Basia Ridley can be reached on (571) 272-1453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R.C./
11 March 2008

/Basia Ridley/
Supervisory Patent Examiner, Art Unit 4145